REMARKS

In accordance with Applicants' duty to provide a summary of an interview, Applicants submit that an interview with Examiner Colan occurred on October 1, 2009. Applicants thank Examiner Colan for the courtesy extended during the interview, in which Applicants presented arguments regarding differences between the claimed invention and the applied references. Applicants followed up the interview by sending a proposed claim amendment to the Examiner. The Examiner indicated that the proposed claim amendment appears to overcome the outstanding prior art rejection, but indicated that further search and consideration are required.

In the final Office Action, the Examiner rejected claims 1-6, 8, 11, 13, 17-22, and 60-75 under 35 U.S.C. § 103(a) as unpatentable over Awadallah et al. (U.S. Patent Application Publication No. 2005/0027699) in view of Maddalozzo, Jr. et al. (U.S. Patent No. 6,460,060) and further in view of Holt et al. (U.S. Patent No. 6,606,061); and rejected claims 9 and 14 under 35 U.S.C. § 103(a) as unpatentable over Awadallah et al. in view of Maddalozzo, Jr. et al. and Holt et al. and further in view of Carolan et al. (U.S. Patent Application Publication No. 2004/0133440).

By this Amendment, Applicants amend claims 1, 11, 20-22, 65, 66, 69, 71-75 to improve form. Claims 1-6, 8, 9, 11, 13, 14, 17-22, and 60-75 remain pending. Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. § 103.

REJECTION UNDER 35 U.S.C. § 103 BASED ON
AWADALLAH ET AL., MADDALOZZO, JR. ET AL., AND HOLT ET AL.

In paragraph 8 of the final Office Action, the Examiner rejected claims 1-6, 8, 11, 13, 17-22 and 60-75 under 35 U.S.C. § 103(a) as allegedly unpatentable over Awadallah et al. in view of Maddalozzo, Jr. et al. and Holt et al. Applicants traverse the rejection.

Independent claim 1, for example, is directed to a method performed by a device. The method comprises receiving, by a processor of the device, a search query from a user; receiving, by the processor, search results, as first-search results, responsive to a search performed using the search query; performing, by the processor, a search of a history database using the search query to obtain search results, as second-search results, the history database storing information regarding documents previously accessed by the user; comparing, by the processor, information corresponding to the second-search results to information corresponding to the first-search results to determine whether information corresponding to one of the second-search results matches information corresponding to one of the first-search results; adding, by the processor, the one of the second-search results to the first-search results when the information corresponding to the one of the second-search results does not match information corresponding to any of the first-search results; modifying, by the processor, the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by identifying a particular number of positions for moving the one of the first-search results and moving the one of the first-search results the particular number of positions within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results; and outputting, by the processor, the first-search results with the added second-search result or the modified first-search result.

Awadallah et al., Maddalozzo, Jr. et al., and Holt et al., whether taken alone or in any reasonable combination, do not disclose or suggest one or more of the features recited in claim 1. For example, Awadallah et al. , Maddalozzo, Jr. et al., and Holt et al. do not disclose or suggest

modifying, by a processor, the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by identifying a particular number of positions for moving the one of the first-search results and moving the one of the first-search results the particular number of positions within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, as recited in claim 1.

The Examiner alleged that Awadallah et al. and Maddalozzo, Jr. et al. disclose moving a position of the one first search result, and cited paragraph 0045 of Awadallah et al. for support (final Office Action, page 5). The Examiner admitted, however, that Awadallah et al. and Maddalozzo, Jr. et al. do not disclose or suggest modifying the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, and alleged that Holt et al. discloses modifying the one of the first-search results, for which the corresponding information matches the information to one of the second-search results, within the first-search results by moving a position of the one of the first-search results relative to a position of another one or more of the first-search results when information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, and cited column 4, lines 56-65, and column 5, lines 34-50, of Holt et al. for support (final Office Action, page 5).

Without acquiescing in the Examiner's allegations, Applicants submit that Awadallah et al., Maddalozzo, Jr. et al., and Holt et al., whether taken alone or in any reasonable combination, do not disclose or suggest modifying, by a processor, the one of the first-search results, for which

the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by identifying a particular number of positions for moving the one of the first-search results and moving the one of the first-search results the particular number of positions within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, as recited in claim 1.

At paragraph 0045, <u>Awadallah et al.</u> discloses:

In an embodiment, each of results from source 1 (202), results from source 2 (204), and results from source 3 (206) are placed on a search results page in distinctly different regions so that it is visually clear that they are from different sources and/or are of different types of results. In an embodiment, results from source 1 (202), results from source 2 (204), and results from source 3 (206) may be in different regions that are not visually distinct, but that are nonetheless logically distinct. Alternatively, results from source 1 (202), results from source 2 (204), and results from source 3 (206) may be mixed together, but nonetheless labeled so that their sources, or the types of source from which they originate, are clear. Optionally, the mixture of results from different sources may be ordered according to a ranking that takes into account each listing's commercial value, quality value, relevance to the search, and/or other measures of the listing's relevance. In other embodiments, the type of source from which the results originate may not be identified or be identifiable.

In this section, <u>Awadallah et al.</u> discloses that the results from source 1, the results from source 2, and the results from source 3 may be mixed together. Even assuming, for the sake of argument, that the results from the different sources correspond to first-search results and second-search results (a point that Applicants do not concede), <u>Awadallah et al.</u> does not disclose or remotely suggest identifying a particular number of positions to move a result, from one source, and moving the result, from the one source, the particular number of positions within results, from the one source, when information corresponding to a result, from another source, matches information corresponding to the result from the one source, as would be required by

claim 1 based on the Examiner's interpretation of <u>Awadallah et al.</u> In fact, <u>Awadallah et al.</u> does

not disclose moving a result a particular number of positions within results from the same source.

<u>Awadallah et al.</u> also does not disclose what happens when a result from one source matches a

result from another source. Rather, <u>Awadallah et al.</u> simply discloses that the results from the

different sources can be mixed together (para. 0045). <u>Awadallah et al.</u> discloses nothing that

reasonably corresponds to identifying a particular number of positions to move a result, or

moving the result the particular number of positions. Thus, <u>Awadallah et al.</u> does not disclose or

suggest modifying, by a processor, the one of the first-search results, for which the

corresponding information matches the information corresponding to the one of the second-

search results, within the first-search results by identifying a particular number of positions for

moving the one of the first-search results and moving the one of the first-search results the

particular number of positions within the first-search results when the information corresponding

to the one of the second-search results matches the information corresponding to the one of the

first-search results, as recited in claim 1.

At column 4, lines 56-65, <u>Holt et al.</u> discloses:

> The lower left circle 208 corresponds to search results stored by the search server
> 102 and made publicly available by the users generating the results. These
> publicly accessible results can be included when performing the user's search, and
> contribute to the current user's search. One advantage of saving previous search
> result objects for later sharing is that, as illustrated, there can be a portion 210 of
> saved search data that is no longer available to other search techniques, thus filing
> in knowledge gaps resulting from rapid changes in online data content.

In this section, <u>Holt et al.</u> discloses search results that have been saved and made publicly

available by users. <u>Holt et al.</u> does not disclose or suggest identifying a particular number of

positions to move a search result, or moving the search result the particular number of positions.

Thus, <u>Holt et al.</u> does not disclose or suggest modifying, by a processor, the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by identifying a particular number of positions for moving the one of the first-search results and moving the one of the first-search results the particular number of positions within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, as recited in claim 1.

At column 5, lines 34-53, <u>Holt et al.</u> discloses:

Thus, after submitting 304 the search query, a time out test 306 (e.g., a waiting period timeout loop (not illustrated) is performed to determine whether results to the search were received within a certain timeout period. If there was no timeout, then resultant data is received 308 by the search server and integrated 310, e.g., duplicates removed, sorted, etc. according to the searcher's preferences (see related application Nos. 09/565,674 and 09/336,020), into search results obtained from searching other search domains (e.g., FIG. 2 items 202, 204). In one embodiment, duplicate results are identified by hashing search result URLs and/or document titles and removing URLs having duplicate hash values.

In one embodiment, before removing duplicates, the number of duplicates for a result is counted so as to determine a relative referencing ranking of a duplicated result. Such a ranking suggests a relative popularity or relevance of a result, and this ranking can be used, either automatically or per user preference, to sort results after removing the duplicates.

In this section, <u>Holt et al.</u> discloses identifying duplicate search results, counting the number of duplicates for a search result, and determining a rank for the duplicated search result based on its number of duplicates. In other words, <u>Holt et al.</u> discloses determining a rank for a search result based on the number of duplicates that are identified for that search result. Determining a rank for a search result does not reasonably correspond to, and is independent from, identifying a particular number of positions to move a search result and moving that search result the

particular number of positions within the search results. In fact, changing the rank of a search result does not necessarily result in a change in the position of the search result. These are simply two different functions with completely independent results.

Even if the change in rank of a search result did result in a change in position of the search result, this still does not correspond to identifying <u>a particular number of positions</u> to move the search result and moving the search result <u>the particular number of positions</u> within the search results. Thus, <u>Holt et al.</u> does not disclose or suggest modifying, by a processor, the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by <u>identifying a particular number of positions</u> for moving the one of the first-search results and <u>moving the one of the first-search results the particular number of positions</u> within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, as recited in claim 1.

Even if the disclosure of <u>Holt et al.</u> could reasonably be combined with the disclosures of <u>Awadallah et al.</u> and <u>Maddalozzo, Jr. et al.</u> (a point that Applicants do not concede), the combination still would not disclose or suggest modifying, by a processor, the one of the first-search results, for which the corresponding information matches the information corresponding to the one of the second-search results, within the first-search results by <u>identifying a particular number of positions</u> for moving the one of the first-search results and <u>moving the one of the first-search results the particular number of positions</u> within the first-search results when the information corresponding to the one of the second-search results matches the information corresponding to the one of the first-search results, as recited in claim 1.

The Examiner alleged that it would have been obvious to incorporate Holt et al.'s disclosure into the combined system of Awadallah et al. and Maddalozzo, Jr. et al. to "reliably index and retrieve data from extend search source" (final Office Action, page 5). Applicants submit that the Examiner's allegation is merely a conclusory statement of an alleged benefit of the combination. Such conclusory statements have been repeatedly held to be insufficient for establishing a prima facie case of obviousness. In this respect, Applicants rely upon KSR International Co. v. Teleflex Inc., 550 U.S. 398 (2007) (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)), where it was held that rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. In this case, the Examiner has provided no such articulated reason with a rational underpinning.

Further, Applicants submit that the Examiner has provided no explanation of how moving a position of a search result achieves the alleged benefit of "reliably index and retrieve data from extend search source," as alleged by the Examiner. Thus, the Examiner's reason falls short of establishing a prima facie case of obviousness with regard to claim 1.

Also, Applicants submit that modifying the Awadallah et al. system in the manner suggested by the Examiner would be directly contrary to the intended function of the Awadallah et al. system (i.e., to obtain search results from multiple sources and provide a combination of the search results as composite search results, where the source or type of each search result is clear (see, e.g., paras. 0040-0045)). Awadallah et al. discloses presenting search results from different databases in different regions within a search results page (Figure 2; para. 0043), or mixing the search results from different databases together *and clearly labeling their source* (para. 0045).

Even in the mixed presentation implementation, <u>Awadallah et al.</u> treats two identical search results from separate databases as two different search results (para. 0045). Thus, the Examiner's modification lacks merit.

For at least these reasons, Applicants submit that claim 1 is patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u>, whether taken alone or in any reasonable combination. Claims 2-6, 8, 11, 13, 17-19, and 60-64 depend from claim 1 and are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u> for at least the reasons given with regard to claim 1.

Independent claims 20-22 and 71 recite features similar to features identified above with regard to claim 1. Claims 20-22 and 71 are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u>, whether taken alone or in any reasonable combination, for at least reasons similar to the reasons given with regard to claim 1. Claims 65 and 66 depend from claim 20 and are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u> for at least the reasons given with regard to claim 20. Claims 67 and 68 depend from claim 21 and are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u> for at least the reasons given with regard to claim 21. Claims 69 and 70 depend from claim 22 and are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u> for at least the reasons given with regard to claim 22. Claims 72 and 73 depend from claim 71 and are, therefore, patentable over <u>Awadallah et al.</u>, <u>Maddalozzo, Jr. et al.</u>, and <u>Holt et al.</u> for at least the reasons given with regard to claim 71.

Accordingly, Applicants respectfully request the Examiner's reconsideration and withdrawal of the rejection of claims 1-6, 8, 11, 13, 17-22, and 60-73 under 35 U.S.C. § 103 based on Awadallah et al., Maddalozzo, Jr. et al., and Holt et al.

REJECTION UNDER 35 U.S.C. § 103 BASED ON *AWADALLAH ET AL.*, *MADDALOZZO, JR. ET AL.*, *HOLT ET AL.*, AND *CAROLAN ET AL.*

In paragraph 9 of the final Office Action, the Examiner rejected claims 9 and 14 under 35 U.S.C. § 103(a) as allegedly unpatentable over Awadallah et al. in view of Maddalozzo, Jr. et al., Holt et al., and Carolan et al. Applicants traverse the rejection.

Claims 9 and 14 depend from claim 1. Without acquiescing in the Examiner's rejection of claims 9 and 14, Applicants submit that the disclosure of Carolan et al. does not cure the deficiencies in the disclosures of Awadallah et al., Maddalozzo, Jr. et al., and Holt et al. identified above with regard to claim 1. Thus, claims 9 and 14 are patentable over Awadallah et al., Maddalozzo, Jr. et al., Holt et al., and Carolan et al., whether taken alone or in any reasonable combination, for at least the reasons given with regard to claim 1.

Accordingly, Applicants respectfully request the Examiner's reconsideration and withdrawal of the rejection of claims 9 and 14 under 35 U.S.C. § 103 based on Awadallah et al., Maddalozzo, Jr. et al., Holt et al., and Carolan et al.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of the application and the timely allowance of the pending claims.

As Applicants' remarks with respect to the Examiner's rejections overcome the rejections, Applicants' silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such assertions (e.g., whether a reference

constitutes prior art, reasons for modifying a reference and/or combining references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or that such requirements have been met, and Applicants reserve the right to dispute these assertions/requirements in the future.

If the Examiner believes that the application is not now in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned to discuss any outstanding issues.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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